

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JAMES ROBINSON,

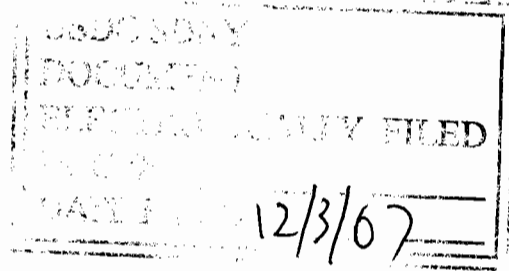
Plaintiff,

-against-

NEW YORK CITY DEPARTMENT OF
CORRECTIONS, *et al.*,

Defendants.
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ALVIN K. HELLERSTEIN, U.S.D.J.:



**ORDER EXPLAINING THE EFFECT
OF MOTION TO DISMISS**

07 Civ. 6643 (AKH)

The Defendant, New York City Department of Corrections, *et al.*, in this case has moved for dismissal of Plaintiff's complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. The Court issues this order to explain to the *pro se* Plaintiff the consequences of such a motion.

By bringing this motion, the Defendant has asked the Court to decide that Plaintiff is entitled to no relief under the law, even if all of the allegations in his complaint are accepted as true. If Defendant's motion is granted, a judgment will be entered in Defendant's favor, dismissing the complaint with prejudice. Thus, it is important that Plaintiff review Defendant's motion and respond if he wishes to rebut Defendant's arguments and to provide support for his complaint—that is, to show that his complaint is legally sufficient.

Pursuant to Plaintiff's request for additional time to respond to Defendant's motion, any papers Plaintiff wishes to submit in opposition to Defendant's motion must be filed with the Court by January 2, 2008. No additional adjournments will be granted. Defendant's reply shall be filed by January 14, 2008.

In deciding Defendant's motion, the Court will not determine whether Plaintiff's


factual allegations are true, but instead will focus on whether those allegations can support a claim for relief under the law. If Plaintiff feels, after reviewing Defendant's submission in support of this motion, that his legal claims are inadequately stated, and he believes that he can, in good faith, add allegations to make his claim legally sufficient, Plaintiff may ask for permission to amend those claims in order to make them legally adequate. Such a request will be granted only if Plaintiff demonstrates good faith and factual basis to make such allegations.

If Plaintiff's allegations do not support a claim for relief under the law, and he fails to amend the complaint to make it legally sufficient, his action will be dismissed.

Finally, Plaintiff is advised that the Pro Se Office at the United States Courthouse, 500 Pearl Street, Room 230, New York, New York 10007, telephone number (212) 805-0175, may be of assistance in connection with court procedures. Please note that the Pro Se Office cannot give legal advice.

SO ORDERED.

Dated: New York, New York
December 3, 2007


ALVIN K. HELLERSTEIN
United States District Judge